

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BARBARA HUBBARD,	)	Case No. 08-1106-W (JMA)
	)	
Plaintiff,	)	<b>NOTICE AND ORDER FOR EARLY</b>
	)	<b>NEUTRAL EVALUATION CONFERENCE</b>
v.	)	
	)	
THRIFTY PAYLESS, INC., etc., et	)	
al.,	)	
	)	
Defendants.	)	
	)	
	)	

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**IT IS HEREBY ORDERED** that an Early Neutral Evaluation Conference will be held on September 2, 2008 at 10:00 a.m. in the chambers of the Honorable Jan M. Adler, United States Magistrate Judge, Room 1165, U.S. Courthouse, 940 Front Street, San Diego, California.

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, **all named parties, all counsel, and any other person(s) whose authority is required to negotiate and enter into settlement shall appear in person at the conference**, shall be prepared to discuss the claims and defenses, and shall be legally

1 and factually prepared to discuss and resolve the case at the  
2 Early Neutral Evaluation conference. The individual(s) present  
3 at the Early Neutral Evaluation Conference with settlement  
4 authority must have the unfettered discretion and authority on  
5 behalf of the party to: 1) fully explore all settlement options  
6 and to agree during the Early Neutral Evaluation Conference to  
7 any settlement terms acceptable to the party (*G. Heileman Brewing*  
8 *Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir.  
9 1989)), 2) change the settlement position of a party during the  
10 course of the Early Neutral Evaluation Conference (*Pitman v.*  
11 *Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and  
12 3) negotiate a settlement without being restricted by any  
13 predetermined level of authority (*Nick v. Morgan's Foods, Inc.*,  
14 270 F.3d 590, 596 (8th Cir. 2001)).

15 Retained outside corporate counsel shall not appear on  
16 behalf of a corporation as the party who has the authority to  
17 negotiate and enter into a settlement. **The failure of any**  
18 **counsel, party or authorized person to appear at the Early**  
19 **Neutral Evaluation Conference as required will result in the**  
20 **immediate imposition of sanctions.**

21 All conference discussions will be informal, off the record,  
22 privileged, and confidential.

23 Counsel for any non-English speaking parties is responsible  
24 for arranging for the appearance of an interpreter at the  
25 conference.

26 Based upon the Court's familiarity with cases brought  
27 pursuant to the Americans with Disabilities Act, and in the  
28 interest of promoting the just, efficient, and economical

determination of this action, the Court issues the following orders:

1. All discovery shall be stayed in this case until after the Federal Rule of Civil Procedure 26(f) conference;

2. **Twenty-one (21) days** prior to the Early Neutral Evaluation Conference, Plaintiff's(s') counsel shall lodge with Magistrate Judge Adler's chambers, and serve on opposing counsel, a statement not in excess of two pages, including the following information:

(a) An itemized list of the specific issues on the subject premises which are the basis of the claimed violations under the Americans with Disabilities Act. A recitation of regulations, by number, will not satisfy this requirement. The claimed violations must be specifically described.

(b) A statement of the amount and category of damages claimed by Plaintiff(s) in this action.

(c) The amount claimed for attorneys' fees and costs; and

(d) The Plaintiff's(s') demand for settlement of the case in its entirety.

3. **Fourteen (14) days** prior to the Early Neutral Evaluation Conference, counsel for the parties shall meet and confer regarding settlement of:

(a) The premises violations alleged; and

(b) Damages, costs, and attorneys' fees claims.

4. **Seven (7) days** prior to the Early Neutral Evaluation Conference, counsel shall lodge with Magistrate Judge Adler's chambers a joint statement advising the Court of the status of

1 settlement negotiations and setting forth all issues in dispute,  
2 including property issues, Plaintiff's(s') alleged damages, and  
3 the claim for attorneys' fees and costs, along with a description  
4 of any settlement demands and/or offers exchanged.

5 5. The statements required to be lodged with the  
6 undersigned's chambers may be delivered directly to chambers, e-  
7 mailed to [efile\\_adler@casd.uscourts.gov](mailto:efile_adler@casd.uscourts.gov), or faxed to (619) 702-  
8 9939.

9 6. Plaintiff's(s') counsel shall be prepared to present to  
10 the Court for *in camera* review at the Early Neutral Evaluation  
11 Conference documentation supporting the amount of attorneys' fees  
12 and costs claimed.

13 Rule 26 of the Federal Rules of Civil Procedure shall apply  
14 to this case. In the event the case does not settle at the Early  
15 Neutral Evaluation Conference, the parties shall also be prepared  
16 to discuss the following matters at the conclusion of the  
17 conference:

18 1. Any anticipated objections under Federal Rule of Civil  
19 Procedure 26(a)(1) to the initial disclosure provisions of Rule  
20 26(a)(1)(A-E);

21 2. The scheduling of the Rule 26(f) conference;

22 3. The date of initial disclosures and the date for  
23 lodging the discovery plan following the Rule 26(f) conference;  
24 and

25 4. The scheduling of a Case Management Conference pursuant  
26 to Rule 16(b).

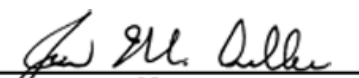
27 Plaintiff's(s') counsel shall give notice of the Early  
28 Neutral Evaluation Conference to parties responding to the

1 complaint after July 22, 2008.

2 Questions regarding this case may be directed to the  
3 Magistrate Judge's law clerk at (619) 557-5585.

4 **IT IS SO ORDERED.**

5 DATED: July 22, 2008

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7 Jan M. Adler  
8 U.S. Magistrate Judge  
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**NOTICE OF RIGHT TO CONSENT TO TRIAL**  
**BEFORE A UNITED STATES MAGISTRATE JUDGE**

IN ACCORDANCE WITH THE PROVISIONS OF 28 U.S.C. § 636(c), YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE JUDGE OF THIS DISTRICT MAY, UPON THE CONSENT OF ALL PARTIES, ON FORM 1A AVAILABLE IN THE CLERK'S OFFICE, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF SHALL BE RESPONSIBLE FOR OBTAINING THE CONSENT OF ALL PARTIES, SHOULD THEY DESIRE TO CONSENT.

YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT TO CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE JUDGE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.

JUDGMENTS OF THE U.S. MAGISTRATE JUDGES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.